

HONOURABLE SRI JUSTICE P. S. NARAYANA

WRIT PETITION No.16075 OF 2006

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DATE: 16-10-2006

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Between:

Mrs. Ghousia Begum, W/o. Mr. Abdul Hameed,
aged about 41 years, Occ: Household,
R/o.H.No.2-3-658/3/2, Azad Nagar,
Amberpet, Hyderabad

.. Petitioner

AND

The Commissioner
Municipal Corporation of Hyderabad,
Tankbund, Hyderabad.

.. Respondent

ORDER:

Heard the learned counsel.

This Court ordering notice before admission on
01-08-2006, ordered *status quo* to be maintained for a limited
period, which is being extended from time to time. Counter
affidavit is filed by the respondent.

The Writ Petition is filed for a Writ of *Mandamus* declaring
the action of the respondent-Municipal Corporation of Hyderabad
in attempting to demolish the petitioner's property bearing
H.No.16-11-16/L/4/A on Plot No.4, forming part of Survey Nos.36
and 24, admeasuring 333.33 square yards, situated at Teegalguda,
Malakpet, Hyderabad without issuing notice or following the due

process of law as arbitrary, illegal, unjust and against the principles of natural justice and please to pass any such further order or orders which this Court deem fit and proper.

It is stated that the petitioner is absolute owner and possessor of the property bearing Municipal No.16-11-16/L/4/A on plot No.4, admeasuring 333.33 square yards forming part of Survey Nos.36 and 24, situated at Teegalguda, Malakpet, Hyderabad, having acquired the same by way of gift from her husband by document No.3878/2005 executed and registered on 28-10-2005.

It is also stated that the petitioner has been in possession and enjoyment of the said property without any hindrance from anybody whatsoever. It is also stated that initially her husband had purchased the above said property in the year 1994 from one Smt. Laxmamma and others and in the year 1997 the staff of the Quli Qutub Shah Urban Development Authority suddenly came to the plot and without notice or following the due process of law started laying 100 foot wide road in Survey Nos.24/1, 36/1 and 34/2 illegally without following the land acquisition proceedings. Then the husband of the petitioner along with others objected to the same and they had been orally instructed by the said authorities that they will pay compensation and asked them to construct the houses in the remaining land. Accordingly, they raised rooms and compound walls for their stay and to protect their property, but in the said illegal acquisition proceedings, the petitioner has lost 30 foot land in her plot and no compensation was paid till date for the said illegal acquisition even though legal notice was issued in this regard. It is also stated that again in the

year 2004 when the revenue authorities and the municipal authorities tried to illegally interfere in their peaceful possession of the land and wanted to demolish the structures, her, the husband of the petitioner along with the neighbours had resisted their illegal attempts and one of the landowners has also filed a writ petition in W.P. No.2749 of 2004 wherein this Court made an interim injunction holding that there shall not be any demolition and subsequent thereto the said writ petition was finally disposed of with a direction to approach the appropriate Forum.

It is also further stated that recently on 24-01-2006, the staff of the Municipal Corporation of Hyderabad along with the Commissioner came to the site in the above said Survey Nos.24/1, 36/1 and 34/2 and again started demolishing the houses without issuing any notice and with great difficulty they could stop the illegal activities. It is also stated that the petitioner along with neighbours gave a detailed representation to the respondent authorities on 13-03-2006 requesting to take appropriate action against those who are responsible for illegal demolitions. In spite of the representations, no action was taken. It is stated that again they came to the site on 26-07-2006 for demolition of the structures but due to timely intervention of their M.L.A. along with the councillor, the respondent had left the place and the M.L.A. had given a personal representation to the respondent attaching the earlier representations bringing all the facts to the notice of the respondent. Several other factual details had also been narrated in paragraph Nos.7 and 8 of the affidavit filed in support of the writ petition.

In the counter affidavit filed, the allegations were denied but,

however, it is stated that it is a fact that the petitioner had applied to the respondent for proposed construction of building on the subject property and the same was refused as the petitioner is not having sufficient documents pertaining to the title of the property and no-objection certificate to be obtained from the District Collector. It is also further stated that after refusal of the proposed construction, instead of submitting the required documents, petitioner started the construction without written permission from the Commissioner as required under Sections 428 and 433 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'). As there is no permission for any construction on the subject property as required under Sections 428 and 433 of the Act, the respondent is bound to take action against the unauthorized construction.

In the light of the respective stands taken by the parties, this Court is of the considered opinion that the writ petition be disposed of directing the respondent not to proceed further with any demolition activity whatsoever unless and until the due process of law is followed.

With the above direction, the Writ Petition is disposed of.
No costs.

P. S. NARAYANA, J

Date:16-10-2006.

PV